

006584-10

**GRANT AGREEMENT
BETWEEN THE CITY OF NEWPORT BEACH AND
CORONA DEL MAR CHAMBER OF COMMERCE**

This Grant Agreement ("Agreement") is entered into this 28th day of October, 2011, by and between the City of Newport Beach, a California municipal corporation and Charter City ("City"), and Corona del Mar Chamber of Commerce, a California nonprofit corporation, located at 2855 E. Coast Highway, Suite 101, Corona del Mar, CA 92625 ("Grantee"). City and Grantee are at times individually referred to as "Party" and collectively as "Parties" herein.

RECITALS

- A. It is the policy of the City Council that the City's budget specifically allows the City Council to direct revenue towards non-profit agencies, community groups, community events, or enhancement projects with worthy projects or programs which the City Council deems beneficial to resident's quality of life.
- B. Grantee requested a grant from the City for the 33rd Annual Corona del Mar Christmas Walk ("Grant Proposal").
- C. The City Council determined the Grant Proposal is for a worthy project that will benefit the City's resident's quality of life.
- D. The City Council approved a grant in the amount of Nine Thousand and 00/100 (\$9,000.00) ("Grant Funds") to Grantee pursuant to certain conditions regarding expenditure, reporting, and accounting requirements.

NOW, THEREFORE, the Parties agree as follows:

1. GRANT

1.1. City awards to Grantee Grant Funds in the amount of Nine Thousand and 00/100 (\$9,000.00) as requested by Grantee in the Grant Proposal attached hereto as Exhibit A and incorporated herein by reference, or such other amount as authorized by the City Council.

1.2. Grant Funds shall be disbursed by City to Grantee as follows (select one):

- ☒ At the time of execution of this Agreement.
- ☐ On or before _____.
- ☐ In four (4) equal installments on the following dates: _____

2. TERM

The term of this Agreement shall commence on the date first written above ("Effective Date") and shall continue in full force and effect until June 30, 2012, unless terminated earlier as provided herein.

3. RESTRICTIONS ON USE OF FUNDS

3.1. The Grant Funds are subject to the following expenditure conditions ("Approved Uses"):

3.1.1. The Grant Funds shall be expended solely for the purposes provided in Exhibit A;

3.1.2. The Grant Funds shall not be used for any activity that would violate City, state or federal statutory or decisional law such as regulations affecting non-profit or tax exempt organizations exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code; and

3.2. Grantee further warrants to City that the Grant Funds will be spent solely for the Approved Uses and the Grant Funds shall be used by Grantee during this Agreement's term otherwise the Grant Funds shall be returned to City, as provided in Section 5 below.

4. REPORTING AND ACCOUNTING REQUIREMENTS

4.1. At all times during the term of this Agreement, Grantee shall maintain true, proper, and complete books, records, and accounts (collectively, "Books and Records") in which shall be entered fully and accurately all transactions taken with respect to the operations of Grantee under the Grant Proposal and the expenditure of the Grant Funds. Grantee shall maintain the Books and Records in accordance with Generally Accepted Accounting Principles.

4.2. City reserves the right to designate its own employee representative(s) or its contracted representative(s) with a Certified Public Accounting firm who shall have the right to audit Grantee's accounting procedures and internal controls of Grantee's financial systems as they relate to the Grant Proposal and to examine any cost, revenue, payment, claim, other records or supporting documentation resulting from any items set forth in this Agreement. Any such audit(s) shall be undertaken by City or its representative(s) at mutually agreed upon reasonable times and in conformance with generally accepted auditing standards. Grantee agrees to fully cooperate with any such audit(s).

4.3. This right to audit shall extend during the length of this Agreement and for a period of three (3) years or longer, if required by law, following the date of any Grant Funds tendered under this Agreement. Grantee agrees to retain all necessary records/documentation for the entire length of this audit period.

4.4. Grantee shall, upon conclusion of the event funded by the Grant Funds, furnish the City with a Balance Sheet and Income Statement describing the receipt and disbursement activities of Grantee with respect to the Grant Funds. In its sole and absolute discretion the City may also require Grantee to submit: (i) quarterly check registers and descriptions of each disbursement; (ii) budget-to-actual-results; and (iii) a statement of position describing the assets and liabilities of Grantee. All reports, including a post-event evaluation, shall be due to the City no later than forty-five (45) days following the conclusion of the event funded by the Grant Funds. In the event that an independent audit is conducted, Grantee shall forward a copy of the audited report to the City for review, including any Management Letter, Report on Internal Controls, or Reportable Conditions letter generated during the course of the audit.

4.5. Grantee agrees to exercise prudent financial management processes including proper oversight of all assets, budget preparation, and timely reporting including budget-to-actual-comparisons.

4.6. All Approved Uses shall be performed by Grantee or under Grantee's supervision. Grantee represents that it possesses the professional and technical skills required to perform the services required by this Agreement, and that it will perform all services with a standard of care and in a manner commensurate with the community professional standards.

5. USE OF GRANT FUNDS

The Grant Funds shall be used solely by Grantee for the Approved Uses and for no other use. In the event that the Grant Funds are not used for the Approved Uses or are not expended by or before June 30, 2012, Grantee shall notify the City in writing, and shall be obligated to return the Grant Funds to City within thirty (30) days.

6. INDEMNIFICATION

6.1. To the fullest extent permitted by law, Grantee shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to this Agreement (including the negligent and/or willful acts, errors and/or omissions of Grantee, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

6.2. Notwithstanding the foregoing, nothing herein shall be construed to require Grantee to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to

enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Grantee.

7. GRANTEE INDEPENDENCE

In the performance of this Agreement, the Grantee, and the agents and employees of Grantee, shall act in an independent capacity and are not officers, employees or agents of the City. The manner and means of performing the Approved Uses are under the control of Grantee, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Grantee or any of Grantee's employees or agents, to be the agents or employees of City. Grantee shall have the responsibility for and control over the means of performing the Approved Uses, provided that Grantee is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Grantee as to the details of the performance or to exercise a measure of control over Grantee shall mean only that Grantee shall follow the desires of City with respect to the results of the Approved Uses.

8. PROHIBITION AGAINST TRANSFERS

Grantee shall not assign, sublease, hypothecate or transfer this Agreement or any of the services to be performed under this Agreement, directly or indirectly, by operation of law or otherwise without prior written consent of City. Any attempt to do so without written consent of City shall be null and void.

9. NOTICES

9.1. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the third business day after the deposit thereof in the United States mail, postage prepaid, first class mail, addressed as hereinafter provided.

9.2. All notices, demands, requests or approvals from Grantee to City shall be addressed to the City at:

Attn: City Manager
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915
Phone: (949) 644-3000; Fax: (949) 644-3020

9.3. All notices, demands, requests or approvals from City to Grantee shall be addressed to Grantee at:

Attn: Linda Leonhard
Corona del Mar Chamber of Commerce
2855 E. Coast Highway, Suite 101
Corona del Mar, CA 92625
Phone: (949) 673-4050

10. TERMINATION

10.1. *Termination for Cause.* Grantee shall be in default if Grantee fails or refuses to perform any duty required by the Agreement or performs in a manner inconsistent with the terms, conditions and restrictions in this Agreement. In such event, City shall give Grantee, thirty (30) days written notice to cure, if the default can be cured and City shall be entitled to terminate this Agreement if Grantee has not cured the default within the thirty (30) day cure period. City shall be entitled to immediately terminate this Agreement if the default cannot be cured through corrective action. If terminated for cause, Grant Funds shall be returned to the City pursuant to Section 5. This Agreement is made on an annual basis, and as such is subject to non-renewal at its termination.

10.2. *Termination without Cause.* City may terminate this Agreement at anytime with or without cause upon seven (7) days written notice to Grantee, any remaining Grant Funds in Grantee's possession at the time of termination shall be returned to City pursuant to Section 5.

10.3. *Specific Performance.* Grantee agrees that the City has the legal right, and all necessary conditions have been satisfied, to specifically enforce Grantee's obligations pursuant to this Agreement.

11. STANDARD PROVISIONS

11.1. Compliance With all Laws. Grantee shall at its own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted.

11.2. Waiver. A waiver by either Party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

11.3. Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

11.4. Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Grant Proposal or any other attachments attached hereto, the terms of this Agreement shall govern.

11.5. Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

11.6. Amendments. This Agreement may be modified or amended only by a written document executed by both Grantee and City and approved as to form by the City Attorney.

11.7. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

11.8. Controlling Law And Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange.

11.9. Equal Opportunity Employment. Grantee represents that it is an equal opportunity employer and it shall not discriminate against any contractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age.

11.10. No Attorney's Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorney's fees.

11.11. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the dates written below.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**

Date: 10/26/11

By: [Signature] (for)
Aaron C. Harp
City Attorney

ATTEST: 11/14/11
Date: _____

By: [Signature]
Leilani I. Brown
City Clerk



**CITY OF NEWPORT BEACH,
A California municipal corporation**

Date: 11/10/2011

By: [Signature]
David A. Kiff
City Manager

**GRANTEE: Corona del Mar Chamber of
Commerce, a California nonprofit
corporation**

Date: 11/11/2011

By: [Signature]
Name: LINDA LEONARD
Title: PRESIDENT

Date: 11/12/2011

By: [Signature]
Name: BERNIE F. SVOLSKY
Title: Vice Chairman

Attachment: Exhibit A: Grant Proposal

[END OF SIGNATURES]

Exhibit A

**THIS PAGE
LEFT BLANK
INTENTIONALLY**

NEWPORT BEACH SPECIAL EVENT - APPLICATION FOR SUPPORT

Section One – Event Summary and Applicant Information

Name of Event

The 33rd Annual Corona del Mar Christmas Walk

Date(s) of Event

Sunday, December 4, 2011

Time(s) of Event

11:00am - 5PM

Location(s) or Venue(s) of Event

The Corona del Mar Business District (Avocado to Poppy). Main Stage at Larkspur & Bayside.

Is or will this be an annual event?

YES



NO



Type of Event – special interest, commercial, sports, cultural/arts, social, etc.

Corona del Mar Merchants Promotions & Holiday Festival

Is there a charge or fee for the event?

YES



NO



Describe what, if any, portion of the event is free to the public.

The event is free to the public with the mission of driving revenue to the CDM Businesses.

Describe what, if any, portion of the event is charitable fund raising. Please provide the name of the charity or charities the event supports along with a contact name and phone number for each charity. What percentage of the proceeds will each charity receive? Please provide an estimate of what the percentage may be in dollars.

The Corona del Mar Chamber of Commerce is a non-profit 501(c)6 & the Christmas Walk is one of three annual fund raising events that supports the organizations operations. The event also proudly supports the U.S. Marine's Corp's "Toys-4-Tots" Program through the

Types of In-Kind City Sponsorship Requested – List:

Requesting only Road Closure fee waivers.

Are you requesting any roads be closed? If yes, which roads, when & for how long?

There will be one Road Closure at the lower end of Larkspur from 7:am - 5:pm on event day only. In addition, the event closes the city's lower lots at Bayside and Marguerite below

Amount of Cash Sponsorship from the City requested and how it will be used. Be specific.

We are requesting the same sponsorship as in previous years in the amount of \$15,000 towards the overall execution of the event.

Name of Applicant Organization			
Corona del Mar Chamber of Commerce			
Description of Applicant Organization - type of entity (attach proof of non-profit 501(c) 3 status if applicable), purpose, and history.			
Established in 1957, the Corona del Mar Chamber of Commerce is a non-profit 501(c)6.			
Mission: The Corona del Mar Chamber serves as a strategic business and community resource dedicated to developing the local business environment and enhancing the quality of life in Corona del Mar.			
Does the Applicant hold intellectual property rights to the event? If not, who does?			
This Is In Process.			
Name of Contact and Contact Information for the Purpose of this Application.			
Linda Leonhard, President			
Address			
2855 E. Coast Hwy, Suite 101, Corona del Mar, CA 92625			
Phone (949) 673-4050	Fax (949) 673-3940		
Mobile (949) 322-5571	Email Linda@cdmchamber.com		
Is there a contract with an event organizer?	YES <input type="radio"/>	NO <input checked="" type="radio"/>	
Best times and ways to reach contact person.			
Available any time.			

List Prior Event Experience of both the Applicant and the Event Organizer.

The Corona del Mar Chamber of Commerce has successfully planned and executed this event for the past 33 years, along with its other two annual community events (The Corona del Mar Scenic 5K and the Coastline Car Classic).

The President of the CDM Chamber of Commerce has over 25 years experience in event planning and marketing of large-scale community events.

If the Applicant conducts a similar event in other cities or if the event has been held in Newport Beach previously, describe any difficulties you've encountered and what adjustments you've made to improve the event.

The event has been held in the same location for 33 years with no known difficulties. Regular communications occur with the NBPD to keep it safe.

Provide previous locations of event, including reasons for leaving, if applicable.

N/A

Section Two – Benefit Statement

Description of How the Event Meets the City Criteria - Maximum two pages.

Using the space below (and one additional page if needed), provide a narrative explaining how the event fulfills the City's twelve evaluation criteria for support, listed at the introduction to this application.

Please See Attachment - Section Two

Section Three – Event Description and Attachments

The application is not complete and will not be reviewed unless requested documents are attached.

Description of the Event – Maximum of one page.

A basic description of your event, including the objectives and history of the event, and if there is a special theme or focus of the event

Business Plan for the Event – Maximum two pages.

Include 1) Event goals, objectives and strategies.
2) Planning, preparation, event schedules with milestones and time frames.

Budget for the Event – Maximum two pages.

Include 1) Projected budget.
2) Detailed budget with cash flows, profit & loss forecasts.
3) A list of confirmed and potential sponsors, both financial and in-kind with dollars confirmed and requested.

Marketing and Promotion Plan for the Event – Maximum three pages.

Include 1) Target Markets.
2) Marketing Objectives.
3) Marketing strategies including advertising/PR activity and timelines.
4) Who is responsible for the marketing and promotion plan?
5) Do they have experience in either events/marketing/PR? If yes, summarize that experience?
6) Itemized marketing and promotions plan budget.

Sponsorship Proposal Package.

Please attach a description of the specific benefits being offered to Newport Beach.

Economic Impact Potential.

Do you have any existing economic impact data such as a commissioned economic impact report for this event? If yes, please attach the latest data along with who collated the data. Whether you have a previous report or not, please use your best estimate to complete the boxes regarding attendance and lodging provided below.

Attendance. (Please do not exaggerate.)

Number of People Expected	NB Residents	US Residents	Foreign Visitors
Participants/Hosts/Competitors/Members of Applicant Organization			
Spectators/Attendees/ Audience/Ticket Buyers/Diners	5,000		
Volunteers/Workers/Vendors	100		
Totals	5,100	0	5,100

Entry Fees	Adult	Child	Other
Participant	\$0.00	\$0.00	\$0.00
Spectators	\$0.00	\$0.00	\$0.00
Totals	\$0.00	\$0.00	\$0.00

Need for Accommodation(s). (Please do not exaggerate.)

Anticipated Number of Room Nights 0

Will all accommodations be in Newport Beach? If not, where?

Probably not applicable.

What is the anticipated average stay in Newport Beach for

Participants 1 Spectators 1

Permits and Safety Plan for the Event

Have you applied for a Special Events Permit for this event? Yes ☒

If, not when will you? October 1, 2011

Have you spoken to Newport Beach Police Department about your event? Yes ☐

If, not when will you? _____

Waste Minimization/Recycling/Clean-up Plan – Maximum two pages.

Explain the types of controls, management programs, initiatives or incentives implemented by your organization, in order to reduce the amount of waste generated and to ensure city property is pristine following your event.

☒ I hereby certify the foregoing statements to be true and correct and agree to defend, indemnify and hold harmless the City of Newport Beach, its City Council, officers, agents, employees and volunteers from and against any and all loss, claims, damages, liability, such claim or suit arising from or in any manner connected to the requested funding and activity. I hereby acknowledge that the Applicant is solely responsible for applying for and receiving all necessary City, County, and/or State permits necessary to conduct the event. I also agree if approved, to comply with all funding and special event permit conditions, and understand that failure to comply with any conditions or any violation of law may result in the immediate cancellation of the event, denial of future events, and or criminal prosecution.

Failure to comply with funding conditions can result in civil litigation to recover the City's money.

Name & Title Linda Leonhard, President Date 04/15/2011

Linda Leonhard

Submit by Email

Signature